

## REGULATORY FRAMEWORK

ACT	SECTION
Administration of Estates Act, 1965 (Act No 66 of 1965)	<p>Sections 13: Deceased estate liquidated or distributed without letters of executorship or direction by Master.</p> <p>Sections 35: Liquidators and distribution accounts.</p> <p>Sections 47: Sales by executor.</p>
Auditing Profession Act, 2005 (Act No 26 of 2005)	Section 52: Reportable irregularities and false statements in connection with audits.
Banks Act, 1990 (Act No 94 of 1990)	<p>Sections 11: Conducting business of deposit-taking institution while not registered as a public company and provisionally or finally registered as a deposit-taking institution in terms of the Act.</p> <p>Section 17 (5) &amp; (6): Institution provisionally registered for the first time as a deposit-taking institution commencing doing business before furnishing proof to the Registrar that it complies with the provisions of section 70.</p> <p>Section 18A: Establishment of branches of foreign institutions in South Africa.</p> <p>Section 21: Untrue information in connection with applications for registration. Section 22: Use of name of deposit-taking institution.</p>
Close Corporations Act, 1984 (Act No 69 of 1984)	Section 64: Liability for reckless carrying-on of business of corporation.
Companies Act, 2008 (Act No 71 of 2008)	Section 214: False statements, reckless conduct and non-compliance
Competition Act, 1998 (Act No 89 of 1998)	Section 73A: Causing or permitting firm to engage in prohibited practice.
Copyright Act, 1978 (Act No 98 of 1978)	Section 27: Infringement of Copyright and remedies
Counterfeit Goods Act, 1997 (Act No 37 of 1997)	Sections 2(1)(b), 2(1)(e) and 2(1)(f): Dealing in counterfeit goods is prohibited and an offence.
Customs and Excise Act, 1964 (Act No 91 of 1964)	<p>Section 15: Any person entering or leaving the Republic shall unreservedly declare all goods in his possession which he brought with him into the Republic or proposes taking with him beyond the borders of the Republic and shall, if required by an officer to do so, produce and open such goods for inspection by the officer.</p> <p>Section 20(4) bis No person shall, without the written permission of the Controller, divert any goods entered for removal from or delivery to a customs and excise warehouse, except goods entered for payment of the duty due thereon, to a destination other than the destination declared on entry of such goods or deliver or cause such goods to be delivered in the Republic except in accordance with the provisions of this Act. [Sub-s. (4)bis inserted by s. 4 (d) of Act No. 95 of 1965 and substituted by s. 14 (b) of Act No. 45 of 1995.]</p> <p>Section 80(1) Any person who- (a) has upon his premises or in his custody or under his control, or purchases, sells or otherwise disposes of any illicit</p>

goods knowing the same to be illicit goods; (b) not being a licensed manufacturer or dealer, without lawful authority, has in his possession or custody or under his control any partly manufactured excisable goods or fuel levy goods or excisable goods or fuel levy goods upon which duty has not been paid; [Para. (b) substituted by s. 27 of Act No. 105 of 1969, by s. 27 (a) of Act No. 84 of 1987 and by s. 32 of Act No. 59 of 1990.] (c) removes or assists in or permits the removal of goods in contravention of any provision of this Act; (h) without lawful excuse (the proof of which shall lie upon him), brings into the Republic, produces or has in his possession any blank or incomplete invoice or any billhead or other similar document capable of being completed and used as an invoice for goods from outside the Republic; [Para. (h) substituted by s. 12 (a) of Act No. 52 of 1986 and by s. 68 (a) of Act No. 30 of 1998.]

- (i) makes improper use of a licence, permit or other document issued in respect of goods to which this Act relates; (j) claims or receives any rebate, drawback, refund or payment or sets off any amount in terms of the provisions of section 77 (a) to which he knows he is not entitled under this Act; [Para. (j) substituted by s. 22 of Act No. 86 of 1982 and by s. 8 (a) of Act No. 98 of 1993.] (k) not being authorized to do so, gives or promises to give, directly or indirectly, any reward to an officer or any person employed by the Government, in respect of the performance or non-performance by any such officer or person of his duty or employment under this Act or agrees with or proposes to any such officer or person to do or permit anything in contravention or evasion of this Act; (l) being an officer or a person employed by the Government, demands or receives, except from or through the Government, any reward in respect of the performance or non-performance of his duty or employment under this Act or by any wilful act, neglect or default does or permits or agrees to do or permit anything in contravention or evasion of this Act; (m) attempts to commit or assists in committing any offence mentioned in this section; shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment. Section 81: Any person who contravenes or fails to comply with the provisions of section 15, shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or treble the value of the goods in question, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and the goods in question and any other goods contained in the same package as well as the package itself shall be liable to forfeiture. [S. 81 substituted by s. 9 of Act No. 93 of 1978, amended by s. 13 of Act No. 52 of 1986, substituted by s. 33 of Act No. 59 of 1990 and amended by s. 9 of Act No. 105 of 1992.]

Section 82(1): Any person who without lawful excuse (the onus of proof of which shall be upon him) uses, or has under his control or in his possession, any stamp or makes available to another person any stamp- (a) which is used under the authority of the Commissioner; [Para. (a) substituted by s. 34 (1) of Act No. 34 of 1997.] (b) the imprint of which is identical to or resembles the imprint of a stamp referred to in paragraph (a) or of any stamp used by a governmental authority in a foreign country under any law of such country relating to customs or excise or to the import or export of goods, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment. (2) Any person who without lawful excuse (the onus of proof of which shall be upon him) manufactures or has in his possession or under his control any stamp the imprint of which depicts the name of a company, firm or other business entity in a foreign country, or any signs or letters which could be reasonably understood to be a reference to such company, firm or business entity, shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment. [S. 82 repealed by s. 8 of Act No. 89 of 1984 and inserted by s. 9 of Act No. 98 of 1993.]

Section 83: Irregular dealing with or in goods.- Any person who- (a) deals or assists in dealing with any goods contrary to the provisions of this Act; or (b) knowingly has in his possession any goods liable to forfeiture under this Act; or (c) makes or attempts to make any arrangement with a supplier, manufacturer, exporter or seller of goods imported or to be imported into or manufactured or to be manufactured in the Republic or with any agent of any such supplier, manufacturer, exporter or seller, regarding any matter to which this Act relates, with the object of defeating or evading the provisions of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture. [S. 83 amended by s. 14 of Act No. 52 of 1986 and by s. 10 of Act No. 105 of 1992.]

Section 84(1): Any person who makes a false statement in connection with any matter dealt with in this Act, or who makes use for the purposes of this Act of a declaration or document containing any such statement shall, unless he proves that he was ignorant of the falsity of such statement and that such ignorance was not due to negligence on his part, be guilty of an offence and liable on conviction to a fine not exceeding R40 000 or treble the value of the goods to which such statement, declaration or document relates, whichever is the greater, or to imprisonment for a period not exceeding ten years, or to both such fine and such imprisonment, and the goods in respect of which such false statement was made or such false declaration or document was used shall be liable to forfeiture. [Sub-s. (1) amended by s. 15 of

Act No. 52 of 1986 and by s. 11 of Act No. 105 of 1992.] (2) For the purposes of subsection (1), any invoice or other document relating to any denomination, description, class, grade or quantity of goods shall be deemed to contain a false statement if the price charged by the exporter or any value, price, commission, discount, cost, charge, expense, royalty, freight, duty, tax, drawback, refund, rebate, remission or other information whatever declared therein which has a bearing on value for the purposes of payment of any duty or on classification in terms of any Schedule to this Act or on anti-dumping duty, countervailing duty or safeguard duty or on extent of rebate, refund or drawback of duty- (a) is not, except in so far as may be otherwise specified, exclusively related to goods of the denomination, description, class, grade or quantity declared in such invoice or document; (b) is influenced, adjusted or amended as a result of any separate transaction, arrangement, agreement or other consideration of any nature whatever particulars of which are not specified in such invoice or document; (c) represents any average or adjustment or amendment, particulars of which are not disclosed in such invoice or document, of such values, prices, commissions, discounts, costs, charges, expenses, royalties, freight, duties, taxes, drawbacks, refunds, rebates, remissions or other information in respect of goods of the same or of different denominations, descriptions, classes, grades or quantities supplied by the same supplier. [Sub-s. (2) added by s. 11 of Act No. 57 of 1966, amended by s. 28 of Act No. 105 of 1969 and by s. 29 of Act No. 112 of 1977 and substituted by s. 14 of Act No. 61 of 1992.] Section 86: -Any person who- (a) fails to advise the Controller of the receipt of any amended prescribed invoice or any credit note or debit note or of any change in the circumstances or particulars of whatever nature as declared in any prescribed invoice or in any other document or of any refund of money or deferred or secret discount, commission or other credit or debit which relates to any goods and which would increase the duty on such goods or exclude them from any rebate or refund or other privilege under this Act; (b) fails to declare in or omits from any prescribed invoice any particulars (including value and origin) in respect of the goods to which such invoice relates and which would increase the duty on such goods or exclude them from any rebate or refund or other privilege under this Act; (c) applies any money or credit received by or due to him as a commission in such a manner as to avoid or evade any duty or obligation or to obtain any rebate or other privilege in respect of any goods under this Act; (d) issues two or more different prescribed invoices or certificates in respect of the same goods or fails to issue an amended prescribed invoice or certificate where any particulars declared in any prescribed invoice or certificate in respect of any goods have changed in any manner whatever; (e) makes or attempts to make or assists in making or attempting to make any arrangement of whatever nature with any person inside or outside the Republic in connection with any goods imported or to be imported into the Republic with the object of or having the effect of defeating or evading the provisions of any agreement entered into between the Republic and any exporting territory which provides for the restriction of or

control over the exportation to the Republic of any goods in any manner or any restriction of or control over the exportation of any goods to the Republic imposed by any exporting territory in any manner by arrangement with or at the instance or suggestion of or with the approval of the Republic; (f) produces to the Controller, for the purposes of section 39 (1) (d), any sample which is not a sample of the goods of which it purports to be a sample or who so produces any copy of any invoice or other document or of any blueprint, illustration, drawing, plan or illustrated and descriptive literature which does not relate to the goods to which it purports to relate or which is incorrect or incomplete or misleading in any respect; (g) allocates the same identification number, code, description, character or other mark referred to in section 41 (2) to goods of different classes or kinds or allocates more than one such identification number, code, description, character or other mark to goods of the same class or kind or who quotes or reproduces any such identification number, code, description, character or other mark in any invoice or document relating to goods to which such number, code, description, character or other mark has not been allocated; or (h) contravenes or fails to comply with the provisions of section 101 or of any rule made in terms of section 73 or 101, [Para. (h) substituted by s. 58 of Act No. 45 of 1995.] shall be guilty of an offence and liable on conviction to a fine not exceeding R40 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding ten years, or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture. [S. 86 substituted by s. 11 of Act No. 85 of 1968 and amended by s. 17 of Act No. 52 of 1986 and by s. 13 of Act No. 105 of 1992.]

Cybercrimes Act 19 of 2020

Section 3(1): Unlawful and intentional interception of data.

Section 3(2): Unlawful and intentional possession of data or output of data with the knowledge that such data was unlawfully and intentionally intercepted.

Section 3(3): Unlawful and intentional possession of data or output of data, in regard to which there is a reasonable suspicion that such data was intercepted unlawfully.

Section 4(1): Any person who unlawfully and intentionally uses, or possesses any software or hardware tool for purposes of contravening an offence described in the Act.

Section 5(1): Unlawful interference with data or computer program.

Section 6(1): Unlawful interference with computer data storage medium or computer system.

Section 7(1) & (2): Unlawful acquisition, provision, receipt or use of password, access code or similar data or device. Section 8: Cyber fraud where the cumulative value of the loss suffered, is R500 000 and over.

	<p>Section 9: Cyber forgery and uttering where the cumulative value of the loss suffered, is R500 000 and over.</p> <p>Section 10: Cyber extortion where the cumulative value of the loss suffered, is R500 000 and over. Section 11(1) &amp; (2): All aggravated offences.</p> <p>Section 12: Theft of incorporeal property where the cumulative value of the loss suffered, is R500 000 and over. Section 17: Attempting, conspiring, aiding, abetting, inciting, instigating, instructing, commanding, procuring, another to commit an offence dealt with by the DPCI.</p>
Electronic Communications and Transactions Act, 2002 (Act No 25 of 2002)	<p>Section 86: Unauthorised access to, interception of or interference with data.</p> <p>Section 87: Computer-related extortion, fraud and forgery.</p> <p>Section 88: Attempt, aiding and abetting.</p>
Exchange Control Regulations, 1961	<p>Regulation 2: Restriction on purchase, sale and loan of foreign currency and gold.</p> <p>Regulation 3: Restriction on the export of currency, gold, securities and the import of South African bank notes.</p> <p>Regulation 10: Restriction on export of capital. Regulation 19: Failure to furnish information on request by the Treasury or by any person authorised by the Treasury.</p>
Financial Advisory and Intermediary Services Act, 2002 (Act No 37 of 2002)	<p>Section 36: Any person who (a) contravenes or fails to comply with a provision of section 7 (1) or (3), 8 (8), 8(10)(a), 13(1) or (2), 14(1), 17(4), 18, 19(2),19(4) or 34(4) or (6); or (b) in any application in terms of this Act, deliberately makes a misleading, false or deceptive statement, or conceals any material fact, or (c) In the execution of duties imposed by this Act gives an appointed auditor or compliance officer information which is false, misleading or conceals any material fact; or (d) Is not a representative appointed or mandated by an authorised financial services provider in accordance with the provisions of this Act, and who in any way declares, pretends, gives out, maintains or professes to be a person who is authorised to render financial services to clients on the basis that the person is appointed or mandated as a representative by another representative, Is guilty of an offence and is on conviction liable to a fine not exceeding R10 Million or imprisonment for a period not exceeding 10 years, or both such fine and imprisonment.</p>
Financial Institutions (Protection of Funds) Act, 2001 (Act No 28 of 2001)	<p>Section 10: Failure to comply with the provisions of the Act.</p>
Financial Intelligence Centre Act, 2001 (Act No 38 of 2001)	<p>Sections 29: Suspicious and unusual transactions.</p> <p>Section 48: Destroying or tampering with records.</p> <p>Section 49: Failure to give assistance.</p> <p>Section 50: Failure to advise centre of client.</p> <p>Section 51: Failure to report cash transaction.</p> <p>Section 52: Failure to report suspicious or unusual transaction.</p> <p>Section 53: Unauthorised disclosure. Section</p> <p>54: Failure to report conveyance of cash into or out of Republic.</p>

	<p>Section 55: Failure to send report to Centre.</p> <p>Section 56: Failure to report electronic transfers.</p> <p>Section 57: Failure to comply with request.</p> <p>Section 58: Failure to comply with direction of the Centre.</p> <p>Section 59: Failure to comply with monitoring order.</p> <p>Section 60: Misuse of information.</p> <p>Section 61: Failure to formulate and implement internal rules.</p> <p>Section 62: Failure to provide training or appoint compliance officer.</p> <p>Section 63: Obstructing of official in performance of functions.</p> <p>Section 64: Conducting transactions to avoid reporting duties.</p>
Financial Markets Act, 2012 (Act No 19 of 2012)	<p>Sections 66: Appointment of members of controlling body.</p> <p>Section 78: Insider Trading.</p> <p>Section 80: Prohibited trading practices.</p> <p>Section 81: False, misleading or deceptive statements, promises and forecasts.</p>
Financial Sector Regulation Act, 2017 (Act No 9 of 2017)	<p>Section 265: A person who contravenes section 46(1) or (2), 52, 69(1) or (2) or 74 commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.</p> <p>Sections 46: Duties of members of Prudential Committee and members of subcommittees.</p> <p>Section 52: Duties of staff members (Prudential Authority).</p> <p>Section 69: Duties of Commissioner, Deputy Commissioner and other subcommittees.</p> <p>Section 74: Duties of staff members (Financial Sector Conduct Authority)</p>
Insolvency Act, 1936 (Act No 24 of 1936)	<p>Section 132: Concealing or destroying books or assets.</p> <p>Section 133: Concealment of liabilities or pretext to existence of assets.</p> <p>Section 134: Failure to keep proper records.</p> <p>Section 135: Undue preference, contracting debts without expectation of ability to pay.</p> <p>Section 136: Failure to give information or to deliver assets, books, etc.</p> <p>Section 137: Obtaining credit during insolvency, offering inducements, etc.</p> <p>Section 138: Failure to attend meetings of creditors or give certain information.</p> <p>Section 139: Failure to appear or to give evidence or giving false evidence.</p> <p>Section 140: Failure of insolvent or spouse to appear to give evidence.</p> <p>Section 141: Acceptance of consideration for certain illegal acts or omissions.</p> <p>Section 142: Removing or concealing property to defeat an attachment or failure to disclose property.</p> <p>Section 143: Criminal liability of partners, administrators, servants or agents.</p> <p>Section 144: Criminal liability of trustee for neglect of certain duties.</p> <p>Section 145: Obstructing trustee.</p>
Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003)	<p>Section 173(1) and (2): Offences relating to the accounting officer in a Municipality.</p> <p>Section 173(3): Offences relating to a senior manager in a Municipality.</p> <p>Section 173(4): Offences relating to a councillor in a Municipality. Section 173(5): Offences relating to a councillor, an official of a municipality or municipal entity or a member of the board of directors of a municipal entity.</p>

Long Term Insurance Act, 1998 (Act No 52 of 1998)	Sections 66: Offences by persons other than long-term insures. Section 67: Offences by long-term insures.
Prevention and Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004)	Chapter 2: Offences in respect of corrupt activities. (Only charges relating to cases investigated by Serious Commercial Crime Investigation).
Prevention of Organised Crime Act, 1998 (Act No 121 of 1998)	Sections 2: Offences relating to racketeering activities. Section 4: Money laundering. Section 5: Assisting another to benefit from proceeds of unlawful activities. Section 6: Acquisition, possession or use of proceeds of unlawful activities. (Only charges relating to cases investigated by Serious Commercial Crime Investigation).
Public Audit Act, 2004 (Act No 25 of 2004)	Section 5(1)(A): the Auditor General may, as prescribed, refer any suspected material irregularity identified during an audit performed under this Act to a relevant public body for an investigation and the relevant public body must keep the Auditor General informed of the progress and the final outcome of the investigation. [Matters referred to the DPCI].
Public Finance Management Act, 1999 (Act No. 1 of 1999)	Section 38: General responsibilities of accounting officers. Section 39: Accounting officers' responsibilities relating to budgetary control. Section 40: Accounting officers' reporting responsibilities. Section 50: Fiduciary duties of accounting officers. Section 51: General responsibilities of accounting authorities. Section 55: Annual report and financial statements. Section 86(3): Person other than person mentioned in section 66 (2) or (3) purporting to borrow money or enters into a contract which purports to bind a department, public entity or constitutional institution to a future financial commitment.
Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No 70 of 2002)	Sections 64: Offences by persons other than short-term insures. Section 65: Offences by short term- insures.
Tax Administration Act, 2011 (Act No 28 of 2011)	Section 234: Criminal offences relating to non-compliance with tax Acts. Section 235: Criminal offences relating to evasion of tax. Section 236: Criminal offences relating to secrecy provision. Section 237: Criminal offences relating to filing return without authority. (Only charges relating to cases investigated by Serious Commercial Crime Investigation).
The National Credit Act, 2005 (Act No 34 of 2005)	Section 160(1): Offences relating to regulator and Tribunal.
Tobacco Products Control Act, 1993 (Act No 83 of 1993)	Section 4A: Distribution of tobacco products for free or at a reduced price, other than a normal trade discount.
Trust Property Control Act, 1988 (Act No 57 of 1988).	Section 15: Report of irregularities. Section 16: Complaints from the master relating to Trust property.